



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/822,261	04/02/2001	William A. Knaus	031672.0005	7290

7590 08/01/2005

James Remenick
POWELL GOLDSTEIN LLP
901 New York Avenue, NW
Third Floor
Washington, DC 20014

EXAMINER

NAJARIAN, LENA

ART UNIT	PAPER NUMBER
----------	--------------

3626

DATE MAILED: 08/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/822,261	KNAUS ET AL.	
	Examiner	Art Unit	
	Lena Najarian	3626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 May 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 and 46-75 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-29 and 46-75 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |



DETAILED ACTION

Notice to Applicant

1. This communication is in response to the amendment filed 5/12/05. Claims 1-29 and 46-75 are pending. Claims 1, 10-11, 19-21, 23, 25-28, 46, 54-55, 59, 61, 63-66, 68, 70-73, and 75 have been amended. Claims 30-45 have been canceled.

Double Patenting

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 1-9, 11-20, 22, 23, 24, 25, 26-29, 46-53, 55-59, 65, 70, 73, 74, and 75 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-9, 11-20, 22, 10, 24, 19, 26-29, 46-53, 55-59, 1, 8, 11, 18, and 19 of copending Application No. 09/816,152. Although the conflicting claims are not identical, they are not patentably distinct from each other because "verified as to accuracy of transcription" is a form of "verified as accurate and correct".

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Specification

4. The amendment filed 4/20/05 and 5/12/05 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: The newly recited "medical information contained within said medical records is verified as to accuracy of transcription and certified for accuracy of transcription" within claim 1, the newly recited "wherein the medical information of said at least one medical record is certified as to accuracy of transcription" within claim 21, the newly recited "certifying that the portion transmitted is accurate as to transcription" within claim 46, and the newly recited "medical records is verified as to accuracy of transcription and certified as to accuracy of transcription, and thereby possesses the characteristic of non-repudiation" within claim 65 appear to constitute new matter.

In particular, Applicant does not point to, nor was the Examiner able to find support for this newly added language within the specification as originally filed. As such, Applicant is respectfully requested to clarify the above issues and to specifically point out support for the newly added limitations in the originally filed specification and claims.

Applicant is required to cancel the new matter in the reply to this Office action.

5. If Applicant continues to prosecute the application, revision of the specification and claims to present the application in proper form is required. While an application can be amended to make it clearly understandable, no subject matter can be added that was not disclosed in the application as originally filed.

Claim Rejections - 35 USC § 112

6. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

7. Claims 1, 21, 46, 65 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

(A) Claims 1, 21, 46, and 65 recite limitations that are new matter, as discussed above, and are therefore rejected.

8. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

9. Claims 1-19 and 60-75 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

(A) Regarding claims 1 and 65, the phrases "can be" and "may be" render the claims indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

(B) Claims 2-19, 60-64, and 66-75 incorporate deficiencies of claims 1 and 65, through dependency, and are also rejected.

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 1-11, 18-26, 29, 46-47, and 51-75 are rejected under 35 U.S.C. 103(a) as being unpatentable over Snowden et al. (US 2002/0026332 A1) in view of Shepard (6,026,363).

(A) Referring to claim 1, Snowden discloses a broad-band, computer-based networked system comprising (para. 77 of Snowden):

a collection of patient-based electronic medical records of a plurality of persons, at least one of which is encrypted or secured when collected, accessed, inputted,

Art Unit: 3626

viewed, integrated or transmitted, wherein (abstract, para. 78, para. 73, and para. 77 of Snowden):

the medical records are obtained and electronically compiled from a plurality of sources (para. 76 of Snowden);

the medical record of a person is transmissible in whole or in part only to that person and others authorized by that person (para. 79 of Snowden);

each medical record can be supplemented with additional information (para. 80 of Snowden); and

additional medical records for additional persons may be added to the collection (para. 2 of Snowden; the Examiner interprets "creating" to be a form of "added");

a secure access for allowing each person to access only their own medical record (para. 106 of Snowden); and

at least another secure access for allowing said others authorized to access only that person's medical records (para. 107 of Snowden).

Snowden discloses the feature of data integrity (para. 121 of Snowden).

However, Snowden does not expressly disclose one or more medical records of the collection possess a characteristic of non-repudiation such that medical information contained within said medical records is verified as to accuracy of transcription and certified for accuracy of transcription.

Shepard discloses one or more medical records of the collection possess a characteristic of non-repudiation such that medical information contained within said

Art Unit: 3626

medical records is verified as to accuracy of transcription and certified for accuracy of transcription (col. 13, line 54 – col. 14, line 9 of Shepard).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the features of Shepard within Snowden. The motivation for doing so would have been to provide accurate and complete patient documentation to meet legal, insurance and third party medical service provider requirements (col. 6, lines 8-13 of Shepard).

(B) Referring to claim 2, Snowden discloses wherein said medical records are electronically compiled by direct input or digital scanning of written information into a computer-readable format (para. 73 of Snowden).

(C) Referring to claim 3, Snowden discloses wherein the sources are selected from the group consisting of hospitals, clinics, physician's offices, pharmacies and combinations thereof (para. 47 of Snowden).

(D) Referring to claim 4, Snowden discloses wherein said medical records are transmissible through the Internet (para. 77 of Snowden).

(E) Referring to claim 5, Snowden discloses wherein the medical record for each person contains one or more of: a table of contents, an index, a source notation for information contained within the medical record, an electronic search tool, annotations for errors, linked annotations for errors, treatment options, health care choices, verification standards and news items relevant to the information in the medical record (para. 116 and para. 81 of Snowden).

(F) Referring to claim 6, Snowden discloses wherein the secure access and the another secure access comprise passwords or encryption keys (para. 117 of Snowden).

(G) Referring to claim 7, Snowden discloses wherein the others authorized are selected from the group consisting of physicians, nurses, hospitals and health care institutions (para. 117 of Snowden).

(H) Referring to claim 8, Snowden discloses wherein all of the medical records of the collection possess the characteristic of non-repudiation (para. 121 of Snowden; the Examiner interprets "data integrity" to imply the characteristic of "non-repudiation").

(I) Referring to claim 9, Snowden discloses wherein said non-repudiated medical record is primary for treatment of the patient to whom said non-repudiated medical record pertains (para. 86 of Snowden).

(J) Referring to claim 10, Snowden discloses wherein the medical information of each medical record of said one or more non-repudiated medical records is primary for treatment and thereby relied upon by medical care providers in furnishing treatment, by employees in choosing for employer benefit options, and by payors in allocating payment for services (para. 85 and para. 86 of Snowden).

(K) Referring to claim 11, Snowden does not disclose wherein the medical information of each certified medical record is certified by the patient, by the source from which said each medical record was obtained, by a system provider or by a combination thereof.

Shepard discloses wherein the medical information of each certified medical record is certified by the patient, by the source from which said each medical record

Art Unit: 3626

was obtained, by a system provider or by a combination thereof (col. 4, line 60 – col. 5, line 11 of Shepard).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the features of Shepard within Snowden. The motivation for doing so would have been to provide accurate and complete patient documentation to meet legal, insurance and third party medical service provider requirements (col. 6, lines 8-13 of Shepard).

(L) Referring to claims 18-19, Snowden does not disclose wherein each medical record is vetted and wherein the medical information of the vetted medical record contains one or more of: corrections of incorrect information, notations of incorrect information, notations of anomalies, linking of errors, linking of anomalies, notation of discrepancies, linking of discrepancies, and combinations thereof.

Shepard discloses wherein each medical record is vetted and wherein the medical information of the vetted medical record contains one or more of: corrections of incorrect information, notations of incorrect information, notations of anomalies, linking of errors, linking of anomalies, notation of discrepancies, linking of discrepancies, and combinations thereof (col. 8, lines 44-48 and col. 14, lines 61-65 of Shepard).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the features of Shepard within Snowden. The motivation for doing so would have been to maintain accurate patient medical information (col. 8, lines 44-48 of Shepard).

(M) Referring to claim 20, Snowden discloses a broad-band, computer-based networked system for individual control and management of electronic medical records comprising a plurality of medical records representing a plurality of persons (para. 77 and abstract of Snowden).

Snowden does not disclose wherein the medical information of at least one medical record of the plurality has been vetted, such that the medical information of said at least one medical record is better than exists at a source site from which the medical record was obtained and thereby is not subject to repudiation.

Shepard discloses wherein the medical information of at least one medical record of the plurality has been vetted, such that the medical information of said at least one medical record is better than exists at a source site from which the medical record was obtained and thereby is not subject to repudiation (col. 1, lines 29-37 and col. 4, line 60 – col. 5, line 11 of Shepard).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the features of Shepard within Snowden. The motivation for doing so would have been to provide accurate and complete patient documentation to meet legal, insurance and third party medical service provider requirements (col. 6, lines 8-13 of Shepard).

(N) Referring to claim 21, Snowden does not disclose wherein the medical information of said at least one medical record is certified as to accuracy of transcription.

Shepard discloses wherein the medical information of said at least one medical record is certified as to accuracy of transcription (col. 5, lines 58-62 of Shepard).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the feature of Shepard within Snowden. The motivation for doing so would have been to provide accurate and complete patient documentation to meet legal, insurance and third party medical service provider requirements (col. 6, lines 8-13 of Shepard).

(O) Referring to claim 22, Snowden does not disclose wherein certification represents a predetermined degree of completeness, accuracy or both to said medical records.

Shepard discloses wherein certification represents a predetermined degree of completeness, accuracy or both to said medical records (col. 1, lines 30-37 and col. 5, lines 58-62 of Shepard).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the features of Shepard within Snowden. The motivation for doing so would have been to provide accurate and complete patient documentation to meet legal, insurance and third party medical service provider requirements (col. 6, lines 8-13 of Shepard).

(P) Referring to claim 23, Snowden does not disclose wherein the medical information of said medical records is further certified as correct.

Shepard discloses wherein the medical information of said medical records is further certified as correct (col. 12, lines 8-12 of Shepard).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the feature of Shepard within Snowden. The motivation for doing so would have been to provide accurate and complete patient documentation to

Art Unit: 3626

meet legal, insurance and third party medical service provider requirements (col. 6, lines 8-13 of Shepard).

(Q) Referring to claim 24, Snowden does not disclose wherein vetted medical records have been reviewed and corrected or annotated for errors, discrepancies and anomalies.

Shepard discloses wherein vetted medical records have been reviewed and corrected or annotated for errors, discrepancies and anomalies (col. 14, lines 61-65 of Shepard).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the feature of Shepard within Snowden. The motivation for doing so would have been to maintain accurate patient medical information (col. 8, lines 44-48 of Shepard).

(R) Claim 25 repeats the same limitations of claim 19, and is therefore rejected for the same reasons given for that claim.

(S) Referring to claim 26, Snowden discloses wherein non-repudiated medical records are primary for treatment of the person to whom each medical record pertains by all health care providers (para. 86 of Snowden).

(T) Referring to claim 29, Snowden discloses wherein access to any one medical record is restricted to the person to whom said one medical record pertains or to others designated and authorized by said person (para. 79 of Snowden).

(U) Referring to claim 46, Snowden discloses a computer system for management of patient-based medical records that contain medical information and are not subject to

Art Unit: 3626

repudiation comprising a database of medical records pertaining to one or more subjects; a receiver for receiving the medical information pertaining to said medical records from one or more senders (Fig. 1 and abstract of Snowden); a process for authorizing said senders and said additional receivers according to a set of rules, wherein said set of rules is designated by said subjects; and a transmitter for transmitting at least a portion of said medical records to one or more additional receivers (para. 118 and para. 79 of Snowden; the Examiner interprets "algorithm" to be a form of "rule").

Snowden does not expressly disclose a process for verifying the medical information received is accurate and correct by at least vetting said medical information and certifying that the portion transmitted is accurate as to transcription.

Shepard discloses a process for verifying the medical information received is accurate and correct by at least vetting said medical information and certifying that the portion transmitted is accurate as to transcription (col. 8, lines 44-48 and col. 13, line 54 – col. 14, line 9 of Shepard).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the features of Shepard within Snowden. The motivation for doing so would have been to provide accurate and complete patient documentation to meet legal, insurance and third party medical service provider requirements (col. 6, lines 8-13 of Shepard).

(V) Referring to claim 47, Snowden discloses wherein said database is a secure database (para. 79 of Snowden).

(W) Referring to claim 51, Snowden discloses wherein said receiver is selected from the group consisting of: modem, cellular receiver, infrared receiver, Ethernet card, facsimile, cable modem, satellite receiver, optical, analog receiver, Internet hub, and web-server (para. 116 of Snowden).

(X) Referring to claim 52, Snowden discloses wherein said transmitter is selected from the group consisting of: modem, cellular transmitter, infrared transmitter, Ethernet card, facsimile, cable modem, satellite transmitter, analog transmitter, Internet hub, and web-server (para. 116 of Snowden).

(Y) Referring to claim 53, Snowden discloses wherein said process of authorizing comprises public key encryption, digital signatures, biometrics, certificate authorities, or user passwords (para. 117, lines 1-9 of Snowden).

(Z) Referring to claim 54, Snowden does not disclose wherein the process of verifying results in an improved accuracy or correctness of at least a portion of the medical information received from said one or more senders.

Shepard discloses wherein the process of verifying results in an improved accuracy or correctness of at least a portion of the medical information received from said one or more senders (col. 4, line 60 – col. 5, line 11 of Shepard).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the feature of Shepard within Snowden. The motivation for doing so would have been to maintain the integrity of the patient's history file (col. 6, lines 46-51 of Shepard).

Art Unit: 3626

(AA) Referring to claim 55, Snowden discloses wherein said non-repudiated medical records of said one or more subjects are primary for treatment of said one or more subjects by health care providers not involved with creating said medical information (para. 86 of Snowden).

(BB) Referring to claim 56, Snowden discloses an integrator for reception, display, analysis and modification of said medical records available to be performed on a plurality of systems of various health care providers, payors, clearinghouses, or oversight agencies (Fig. 2 and para. 78 of Snowden).

(CC) Referring to claim 57, Snowden discloses wherein said database is administered by a service provider other than said subjects, senders, and receivers (para. 104 of Snowden; the Examiner interprets "database manager" to be a form of "service provider").

(DD) Referring to claim 58, Snowden discloses including vetting that allows said subjects to supplement said medical records with information relating to the accuracy of said medical records (para. 80 of Snowden).

(EE) Referring to claim 59, Snowden discloses wherein said medical records are owned and controlled by said subjects (para. 2 of Snowden).

(FF) Referring to claim 60, Snowden discloses wherein the collection is encrypted and secured (para. 78 of Snowden).

(GG) Referring to claim 61, Snowden discloses wherein the medical information contained within said medical records is verified as accurate and correct by a rules-based process (para. 118 and para. 121 of Snowden).

Art Unit: 3626

(HH) Referring to claim 62, Snowden discloses wherein the rules-based process is computerized in whole or in part and involves screening by medical record paraprofessionals, nurses, physicians or specialist physicians (para. 118 of Snowden).

(II) Referring to claim 63, Snowden does not disclose wherein the medical information contained within said one or more non repudiated medical records is further certified as correct.

Shepard discloses wherein the medical information contained within said one or more non repudiated medical records is further certified as correct (col. 5, lines 58-62 and col. 6, lines 8-13 of Shepard).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the feature of Shepard within Snowden. The motivation for doing so would have been to verify the accuracy of the patient's medical information (col. 5, lines 10-11 of Shepard).

(JJ) Referring to claim 64, Snowden discloses wherein the medical information of each medical record can be relied upon for all aspects of treatment of the person to whom said each medical record pertains (para. 47 of Snowden).

(KK) Referring to claim 65, Snowden discloses a network system comprising (para. 77 of Snowden):

a collection of patient-based electronic medical records containing medical information, wherein (see abstract of Snowden):

the medical records are obtained and electronically compiled from a plurality of sources (para. 76 of Snowden);

the medical records are transmissible in an encrypted fashion in whole or in part only to that person and others authorized by that person (para. 78 and para. 79 of Snowden);

each medical record can be supplemented with additional information (para. 80 of Snowden); and

additional medical records for additional persons may be added to the collection (para. 2 and para. 129 of Snowden); and

a capability of having multiple secure accesses for a person and others authorized by the person to access only their own medical record (para. 107 of Snowden).

Snowden does not disclose that the medical information contained within one or more medical records is verified as to accuracy of transcription and certified as to accuracy of transcription, and thereby possesses the characteristic of non-repudiation.

Shepard discloses that the medical information contained within one or more medical records is verified as to accuracy of transcription and certified as to accuracy of transcription, and thereby possesses the characteristic of non-repudiation (col. 13, line 54 – col. 14, line 9 of Shepard).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the feature of Shepard within Snowden. The motivation for doing so would have been to provide accurate and complete patient documentation to meet legal, insurance and third party medical service provider requirements (col. 6, lines 8-13 of Shepard).

(LL) Claims 66-67 repeat the same limitations of claims 61-62, and are therefore rejected for the same reasons given for those claims.

(MM) Referring to claim 68, Snowden does not disclose wherein the medical information of the one or more certified medical records has a predetermined degree of completeness, accuracy or both.

Shepard discloses wherein the medical information of the one or more certified medical records has a predetermined degree of completeness, accuracy or both (col. 1, lines 30-37 and col. 5, lines 58-62 of Shepard).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the feature of Shepard within Snowden. The motivation for doing so would have been to verify the accuracy of the patient's medical information (col. 5, lines 10-11 of Shepard).

(NN) Referring to claim 69, Snowden discloses wherein each medical record can be relied upon for treatment of the person to whom said each medical record pertains (para. 86 of Snowden).

(OO) Referring to claim 70, Snowden discloses wherein the medical information of all of the medical records of the collection possess the characteristic of non-repudiation (para. 121 of Snowden; the Examiner interprets "data integrity" to imply "non-repudiation").

(PP) Referring to claim 71, Snowden discloses wherein said non-repudiated medical record is primary for all aspects of treatment of the patient to whom said non-repudiated medical record pertains (para. 86 of Snowden).

(QQ) Referring to claims 72 and 73, Snowden does not disclose wherein the medical information of each medical record is further certified as correct and wherein each certified medical record is certified as accurate by the patient, by the source from which said each medical record was obtained, by a system provider or by a combination thereof.

Shepard discloses wherein the medical information of each medical record is further certified as correct (col. 5, lines 58-62 and col. 6, lines 8-13 of Shepard) and wherein each certified medical record is certified as accurate by the patient, by the source from which said each medical record was obtained, by a system provider or by a combination thereof (col. 4, line 60 – col. 5, line 11 of Shepard).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the features of Shepard within Snowden. The motivation for doing so would have been to verify the accuracy of the patient's medical information (col. 5, lines 10-11 of Shepard).

(RR) Claims 74-75 repeat the same limitations of claims 18-19, and are therefore rejected for the same reasons given for those claims.

12. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Snowden et al. (US 2002/0026332 A1) in view of Shepard (6,026,363), and further in view of Baker ("PCASSO: A Model for Safe Use of the Internet in Healthcare").

(A) Referring to claim 12, Snowden and Shepard do not disclose wherein the collection comprises medical records of more than 100,000 persons.

Baker discloses wherein the collection comprises medical records of more than 100,000 persons (col. 3, lines 1-4 of Baker).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the feature of Baker within Snowden and Shepard. The motivation for doing so would have been to accommodate as large a customer base as possible.

13. Claims 13-15, 27-28, and 48-50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Snowden et al. (US 2002/0026332 A1) in view of Shepard (6,026,363), and further in view of Malik (US 2001/0037219 A1).

(A) Referring to claims 13-15, Snowden and Shepard do not disclose wherein said collection complies with a federal or state standard of privacy and security, wherein the federal standard is the Health Insurance Portability and Accountability Act of 1996, and wherein said collection complies with all state standards of privacy and security for the geographical area in which the system operates.

Malik discloses wherein said collection complies with a federal or state standard of privacy and security, wherein the federal standard is the Health Insurance Portability and Accountability Act of 1996, and wherein said collection complies with all state standards of privacy and security for the geographical area in which the system operates (para. 40 and para. 59 of Malik).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the features of Malik within Snowden and Shepard. The motivation for doing so would have been to allow for communication in a secure environment (para. 40) and to be aware of the laws and regulations governing health care in each jurisdiction (para. 59 of Malik).

(B) Referring to claims 27-28, Snowden and Shepard do not disclose wherein the plurality of medical records complies with the Health Insurance Portability and Accountability Act of 1996 and which further complies with a state standard of privacy and security.

Malik discloses wherein the plurality of medical records complies with the Health Insurance Portability and Accountability Act of 1996 and which further complies with a state standard of privacy and security (para. 40 and para. 59 of Malik).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the features of Malik within Snowden and Shepard. The motivation for doing so would have been to allow for communication in a secure environment (para. 40) and to be aware of the laws and regulations governing health care in each jurisdiction (para. 59 of Malik).

(C) Referring to claims 48-50, Snowden and Shepard do not disclose wherein said secure database complies with a federal standard of privacy and security, wherein the federal standard is the Health Insurance Portability and Accountability Act of 1996, and which further complies with a state standard of privacy and security.

Malik discloses wherein said secure database complies with a federal standard of privacy and security, wherein the federal standard is the Health Insurance Portability and Accountability Act of 1996, and which further complies with a state standard of privacy and security (para. 40 and para. 59 of Malik).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the features of Malik within Snowden and Shepard. The motivation for doing so would have been to allow for communication in a secure environment (para. 40) and to be aware of the laws and regulations governing health care in each jurisdiction (para. 59 of Malik).

14. Claims 16-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Snowden et al. (US 2002/0026332 A1) in view of Shepard (6,026,363), and further in view of Shear (4,827,508).

(A) Referring to claims 16-17, Snowden and Shepard do not disclose a fee which is assessed for each access to a medical record and a fee which is assessed for maintenance of a medical record.

Shear discloses a fee which is assessed for each access to a medical record (col. 3, lines 3-14 of Shear) and a fee which is assessed for maintenance of a medical record (col. 1, lines 55-59 and col. 3, lines 3-14 of Shear).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the feature of Shear within Snowden and Shepard. The motivation for doing so would have been to charge a fee in accordance with the amount

the user has used the system (col. 3, lines 11-14 of Shear) and to recover the costs of constructing and maintaining a database (col. 3, lines 3-7 of Shear).

Response to Arguments

15. Applicant's arguments with respect to claims 1-29 and 46-59 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited but not applied prior art teaches a method and system for managing patient medical records (US 2001/0041991 A1); an apparatus and method for processing and/or for providing healthcare information and/or healthcare-related information (US 6,283,761 B1); a patient data quality review method and system (5,307,262); a method and apparatus for requesting, retrieving, and normalizing medical information (US 2001/0053986 A1); a dynamic remotely accessible medical record (US 2001/0032100 A1); a system, method and article of manufacture for managing a medical services network (US 2001/0051881 A1); a networked medical information system for clinical practices (US 2002/0022975 A1); a medical transcription system with text expansion (5,781,891); a method and apparatus for facilitating delivery of medical services (US 2002/0019749 A1); a computerized file maintenance system for managing medical records including narrative reports (5,327,341); personalizing hospital intranet web sites (6,076,166); a remote data collecting and address providing method and

Art Unit: 3626

apparatus (US 6,408,330 B1); a medication monitoring system and apparatus (US 6,421,650 B1); and an individualized patient electronic medical records system (US 6,523,009 B1).

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lena Najarian whose telephone number is 571-272-7072. The examiner can normally be reached on Monday - Friday, 8:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on 571-272-6776. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ln

In.

7-18-05

Joseph Thomas
JOSEPH THOMAS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600